



State of Wisconsin
2003 - 2004 LEGISLATURE

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ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 201

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1 AN ACT *to renumber* 48.57 (3m) (a) 1. and 48.57 (3n) (a) 1.; *to renumber and*
2 *amend* 48.57 (3m) (d), 48.57 (3n) (d), 48.57 (3p) (a) and 49.155 (5); *to amend*
3 48.57 (3m) (am) 2., 48.57 (3m) (f), 48.57 (3m) (g) 1. (intro.), 48.57 (3m) (g) 2.,
4 48.57 (3n) (f), 48.57 (3n) (g) 1. (intro.), 48.57 (3n) (g) 2., 48.57 (3p) (d), 48.57 (3p)
5 (e) 4., 48.57 (3p) (fm) 1., 48.57 (3p) (fm) 1m., 48.57 (3p) (fm) 2., 48.57 (3p) (fm)
6 2m., 48.57 (3p) (g) (intro.), 48.57 (3p) (h) 1., 48.57 (3p) (h) 3., 48.57 (3p) (h) 4.,
7 48.57 (3p) (h) 5., 48.57 (3p) (hm), 48.57 (3t) and 880.08 (3) (am) (intro.); and *to*
8 *create* 48.57 (3m) (a) 1d., 48.57 (3m) (d) 1. to 4., 48.57 (3n) (a) 1d., 48.57 (3n)
9 (d) 1. to 3., 48.57 (3p) (a) 2., 48.57 (3p) (h) 2m., 48.57 (3p) (hg), 48.57 (3r), 48.979
10 and 49.155 (5) (c) and (d) of the statutes; **relating to:** kinship care, notice of
11 guardianship proceedings, creating a health services consent form, requesting

- 1 the Joint Legislative Council to study guardianship and legal custody, granting
2 rule-making authority, and providing penalties.

Analysis by the Legislative Reference Bureau

Introduction

This substitute amendment makes various changes relating to kinship care and long-term kinship care, under which certain relatives of a child who provide care and maintenance for the child and who meet certain other conditions are eligible to receive monthly payments from the county department of human services or social services (county department) or, in Milwaukee County, the Department of Health and Family Services (DHFS). Those changes include changes relating to eligibility for kinship care and long-term kinship care, the procedures for discontinuing kinship care or long-term kinship care payments, copayment liability for child care provided for a kinship care or long-term kinship care relative, and funding of kinship care. The substitute amendment also changes the manner in which notice of a guardianship proceeding in which the proposed ward is a minor must be provided, creates a health services consent form that a parent may use to authorize a caregiver to consent to health services for the parent's child, and requests the Joint Legislative Council to study state laws regarding guardianship and legal custody of children and the rights and responsibilities of guardians and legal custodians of children.

Kinship care

Under current law, one of the conditions that must be met in order for a relative who is providing care and maintenance for a child to be eligible to receive kinship care payments is that the county department or DHFS must determine that the child meets a criterion for the child or juvenile in need of protection or services jurisdiction of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code, for example, the child has been the victim of abuse or neglect, or that the child would be at risk of meeting a criterion for that jurisdiction if the child were to remain in his or her home.

This substitute amendment provides that a relative who is providing care and maintenance for a child is eligible to receive kinship care payments if the child has been living with a relative for two years or longer and the county department or DHFS determines that the child's parents have consented to the living arrangement and that the living arrangement is not contrary to the health, safety, or welfare of the child.

Under current law, another condition that must be met in order for a relative who is providing care and maintenance for a child to be eligible to receive kinship care payments or long-term kinship care payments is that the county department or DHFS must conduct a background investigation of the relative, any employee or prospective employee of the relative who has or would have regular contact with the child, and any adult resident of the relative's home to determine if any of those individuals has any arrests or convictions that could adversely affect the child or the

relative's ability to care for the child. Currently, a county department or DHFS may consider any arrest in making that determination.

This substitute amendment limits the arrests that a county department or DHFS may consider in determining eligibility for kinship or long-term kinship care payments to arrests for a crime against life or bodily security, a crime against sexual morality, or a crime against children, subject to certain exceptions, including an exception for an arrest for prostitution, patronizing a prostitute, or pandering that occurred 20 years or more before the background investigation.

Under current law, at least once every 12 months after a county department or DHFS begins making kinship care or long-term kinship care payments to a relative who is providing care and maintenance for a child, the county department or DHFS is required to determine if the relative is still eligible to receive those payments. If the relative is no longer eligible to receive those payments, the county department or DHFS is required to discontinue making those payments.

This substitute amendment requires a county department or DHFS to discontinue making kinship care or long-term kinship care payments effective immediately upon notice if the relative is no longer providing care and maintenance for the child and to discontinue making those payments not less than 10 days after providing notice of discontinuation if the payments are being discontinued on any other grounds.

Under current law, a relative whose application for kinship care payments is denied or whose kinship care payments are discontinued on any grounds other than arrest or conviction record may appeal that denial or discontinuation to DHFS while a relative whose application for kinship care payments is denied or whose kinship care payments are discontinued on the grounds of arrest or conviction record may request the director of the county department or, in Milwaukee County, a person designated by the secretary of health and family services to review the denial or discontinuation and determine whether the arrest or conviction could adversely affect the child or the relative's ability to care for the child.

This substitute amendment permits a determination by a director of a county department or, in Milwaukee County, a person designated by the secretary of health and family services upholding a denial or discontinuation of kinship care payments to be appealed to DHFS.

Under current law, if a relative whose kinship care or long-term kinship care payments are discontinued requests a hearing within 10 days after the date of notice of the discontinuation, those payments may not be discontinued until a decision is rendered after hearing, subject to certain exceptions and subject to the right of the county department or DHFS to recover those payments if the discontinuation is upheld.

This substitute amendment permits kinship care and long-term kinship payments to continue pending a decision rendered after hearing, in the case of a relative whose payments are discontinued on any grounds other than the grounds that the relative is no longer providing care and maintenance for the child, if the relative requests a hearing before the date on which the payments are to be discontinued. The substitute amendment does not change current law regarding

continuation of payments pending a decision rendered after hearing in the case of a relative whose payments are discontinued on the grounds that the relative is no longer providing care and maintenance for the child.

Under current law, a person who is receiving kinship care or long-term kinship care payments and who is receiving a child care subsidy under the Wisconsin Works Program is liable for a percentage of the cost of the child care as specified by the Department of Workforce Development. This substitute amendment exempts a person who is receiving kinship care or long-term kinship care payments from that liability.

Finally, with respect to kinship care and long-term kinship care payments, the substitute amendment permits DHFS to request the secretary of administration to provide supplemental funding for those payments if the amounts appropriated for those payments are insufficient to provide those payments to all persons who are eligible to receive those payments and requires DHFS to study methods to manage the funding appropriated for kinship care payments in order to minimize the need for waiting lists for those payments.

Notice of guardianship proceeding

Under current law, if notice of a guardianship proceeding in which the proposed ward is a minor cannot be served personally on the proposed ward's spouse, parents, legal custodian, or physical custodian, or the proposed ward, if 14 years of age or over (interested party), notice of the proceeding must be given by mail, together with publication of the notice three times in a newspaper that is published in the county of the proceeding. This substitute amendment permits notice of a guardianship proceeding in which the proposed ward is a minor to be given by mail, together with one newspaper publication of the notice, when an interested party cannot be served personally.

Health services consent form

Under current law, a guardian of a child has the duty and authority to consent to major medical, psychiatric, and surgical treatment for the child and a legal custodian of a child has the right and duty to provide ordinary medical and dental care for the child. In the absence of guardianship or legal custody, however, a person ~~with whom a child resides~~ (caregiver) does not have the authority to consent to health services for the child.

This substitute amendment creates a health services consent form that a parent may use to authorize a caregiver to consent to health services for the parent's child and to consent to the release of the child's patient health care records. Under the substitute amendment, a caregiver designated in a health services consent form has priority over all other individuals, other than a parent who is not currently denied periods of physical placement with the child, to make health care decisions as provided in the health services consent form. A health services consent form remains in effect for the time specified in the form, which may be for up to one year, may be revoked by the parent at any time, and is invalid if the child no longer lives with the caregiver. A health care provider or health care facility is immune from liability for complying with the decision of a caregiver that is made under a health services consent form and for acting contrary to a revocation of a health services

who resides with a child or provides temporary or permanent care and supervision for a child

consent form or a health services decision of a parent who is not currently denied periods of physical placement with the child, if the health care provider or health care facility does not have actual knowledge of the revocation or parent's decision. Similarly, a caregiver is immune from liability for making a decision in good faith under a health services consent form.

Guardianship and legal custody study

Finally, the substitute amendment requests the Joint Legislative Council to study state laws regarding guardianship and legal custody of children and the rights and responsibilities of guardians and legal custodians of children and, if the Joint Legislative Council conducts that study, to report its findings, conclusions, and recommendations to the legislature by January 1, 2005.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 48.57 (3m) (a) 1. of the statutes is renumbered 48.57 (3m) (a) 1r.

2 SECTION 2. 48.57 (3m) (a) 1d. of the statutes is created to read:

3 48.57 (3m) (a) 1d. "Arrest" has the meaning given in sub. (3p) (a) 2.

4 SECTION 3. 48.57 (3m) (am) 2. of the statutes is amended to read:

5 48.57 (3m) (am) 2. The county department or department determines that the
6 child meets one or more of the criteria specified in s. 48.13 or 938.13, that the child
7 would be at risk of meeting one or more of those criteria if the child were to remain
8 in his or her home, or, if the child is 18 years of age or over, that the child would meet
9 or be at risk of meeting one or more of those criteria as specified in this subdivision
10 if the child were under 18 years of age; or the child has been living with the kinship
11 care relative for 2 years or longer and the county department or department
12 determines that the child's parents have consented to the living arrangement and
13 that the living arrangement is not contrary to the health, safety, or welfare of the
14 child.

15 SECTION 4. 48.57 (3m) (d) of the statutes is renumbered 48.57 (3m) (d) (intro.)
16 and amended to read:

1 48.57 (3m) (d) (intro.) A county department or, in a county having a population
2 of 500,000 or more, the department shall review a placement of a child for which the
3 county department or department makes payments under par. (am) not less than
4 every 12 months after the county department or department begins making those
5 payments to determine whether the kinship care relative is still providing care and
6 maintenance for the child and whether the conditions specified in par. (am) 1. to 6.
7 continue to exist. ~~If those conditions~~ If the kinship care relative is no longer
8 providing care and maintenance for the child, the county department or department
9 shall discontinue making those payments effective immediately upon providing
10 written notice of the discontinuation to the kinship care relative. If any of the
11 conditions specified in par. (am) 1. to 6. do not continue to exist, the county
12 department or department shall discontinue making those payments after providing
13 the kinship care relative whose payments are being discontinued with written notice
14 of that discontinuation not less than 10 days before the date on which those
15 payments are to be discontinued. The notice shall advise the kinship care relative
16 of all of the following:

17 SECTION 5. 48.57 (3m) (d) 1. to 4. of the statutes are created to read:

18 48.57 (3m) (d) 1. That, if the payments are being discontinued on the grounds
19 that the kinship care relative is no longer providing care and maintenance for the
20 child, the kinship care relative may petition the department under par. (g) for a
21 review of that discontinuation by submitting a petition for review within 45 days
22 after the date of the notice of discontinuation.

23 2. That, if the payments are being discontinued on the grounds that a condition
24 specified in par. (am) 1., 2., 5., 5m., or 6. does not continue to exist, the kinship care
25 relative may petition the department under par. (g) for a review of that

1 discontinuation by submitting a petition for review within 45 days after the date on
2 which those payments are discontinued.

3 3. That, if the payments are being discontinued based on arrest or conviction
4 record, the kinship care relative may request a review of that discontinuation by
5 submitting a request for review under sub. (3p) (h) 2. within 45 days after the date
6 on which those payments are discontinued.

7 4. That, if the kinship care relative submits a petition for review under par. (g)
8 or sub. (3p) (h) within the applicable time limit specified in par. (g) 2., or sub. (3p) (h)
9 2m., the kinship care relative's payments may not be discontinued, except as
10 provided in par. (g) 2. a. or b. or sub. (3p) (h) 2m. a. or b., until a final decision is
11 rendered on the petition for review, but that payments made pending the decision
12 may be recovered by the county department or department if the discontinuation is
13 upheld.

14 **SECTION 6.** 48.57 (3m) (f) of the statutes is amended to read:

15 48.57 (3m) (f) Any person whose application for payments under par. (am) is
16 not acted on promptly within 45 days after receipt of a completed application or is
17 denied on the grounds that a condition specified in par. (am) 1., 2., 5., 5m., or 6. has
18 not been met and any person whose payments under par. (am) are discontinued
19 under par. (d) may petition the department under par. (g) for a review of that ~~action~~
20 ~~or failure to act, denial, or discontinuation~~. Review is unavailable if the ~~action or~~
21 ~~failure to act, denial, or discontinuation~~ arose more than 45 days before submission
22 of the petition for review.

23 **SECTION 7.** 48.57 (3m) (g) 1. (intro.) of the statutes is amended to read:

24 48.57 (3m) (g) 1. (intro.) Upon receipt of a timely petition under par. (f) the
25 department shall give the applicant or recipient reasonable notice and an

1 opportunity for a fair hearing. The department may make such additional
2 investigation as it considers necessary. Notice of the hearing shall be given to the
3 applicant or recipient and to the county department or subunit of the department
4 whose ~~action or failure to act, denial, or discontinuation~~ is the subject of the petition.
5 That county department or subunit of the department may be represented at the
6 hearing. The department shall render its decision as soon as possible after the
7 hearing and shall send a certified copy of its decision to the applicant or recipient and
8 to the county department or subunit of the department whose ~~action or failure to act,~~
9 denial, or discontinuation is the subject of the petition. The decision of the
10 department shall have the same effect as an order of the county department or
11 subunit of the department whose ~~action or failure to act, denial, or discontinuation~~
12 is the subject of the petition. The decision shall be final, but may be revoked or
13 modified as altered conditions may require. The department shall deny a petition
14 for review or shall refuse to grant relief if any of the following applies:

15 SECTION 8. 48.57 (3m) [✓](g) 2. of the statutes is amended to read:

16 48.57 (3m) (g) 2. If a recipient whose payments under par. (am) are being
17 discontinued on the grounds that the recipient is no longer providing care and
18 maintenance for the child requests a hearing within 10 days after the date of notice
19 that his or her payments under par. (am) are being discontinued or if a recipient
20 whose payments under par. (am) are being discontinued on the grounds that a
21 condition specified in par. (am) 1., 2., 5., 5m., or 6. does not continue to exist requests
22 a hearing before the date on which his or her payments under par. (am) are to be
23 discontinued, those payments may not be discontinued, except as provided in subd.
24 2. a. or b., until a decision is rendered after the hearing, but payments made pending
25 the hearing decision may be recovered by the county department or department if the

1 ~~contested action or failure to act~~ discontinuation is upheld. The department shall
2 promptly notify the county department of the county in which the recipient resides
3 or, if the recipient resides in a county having a population of 500,000 or more, the
4 subunit of the department administering ~~of the kinship care program~~ in that county
5 that the recipient has requested a hearing. Payments under par. (am) shall be
6 discontinued pending a hearing decision if any of the following applies:

7 **SECTION 9.** 48.57 (3n) [✓](a) 1. of the statutes is renumbered 48.57 (3n) (a) 1r.

8 **SECTION 10.** 48.57 (3n) (a) 1d. of the statutes is created to read:

9 48.57 (3n) (a) 1d. "Arrest" [✓]has the meaning given in sub. (3p) (a) 2.

10 **SECTION 11.** 48.57 (3n) (d) of the statutes is renumbered 48.57 (3n) (d) (intro.)
11 and amended to read:

12 48.57 (3n) (d) (intro.) The county department or, in a county having a
13 population of 500,000 or more, the department shall, at least once every 12 months
14 after the county department or department begins making payments under this
15 subsection, determine whether the conditions specified in par. (am) 1. to 5r. continue
16 to exist and whether any of the events specified in par. (am) 6. a. to f. ~~have~~ has
17 occurred. If any ~~such events have~~ event specified in par. (am) 6. a. to f. has occurred,
18 the county department or department shall discontinue making those payments
19 immediately upon providing written notice of the discontinuation to the long-term
20 kinship care relative. If any of the conditions specified in par. (am) 1. to 5r. do not
21 continue to exist, the county department or department shall discontinue making
22 those payments after providing the long-term kinship care relative whose payments
23 are being discontinued with written notice of that discontinuation not less than 10
24 days before the date on which those payments are to be discontinued. The notice
25 shall advise the long-term kinship care relative of all of the following:

SECTION 12. 48.57 (3n) (d) 1. to 3. of the statutes are created to read:

48.57 (3n) (d) 1. That, if the payments are being discontinued on the grounds that an event specified in par. (am) 6. a. to f. has occurred, the long-term kinship care relative may petition the department under par. (g) for a review of that discontinuation by submitting a petition for review within 45 days after the date of the notice of discontinuation.

2. That, if the payments are being discontinued on the grounds that a condition specified in par. (am) 1. to 5r. does not continue to exist, the long-term kinship care relative may petition the department under par. (g) for a review of that discontinuation by submitting a petition for review within 45 days after the date on which those payments are discontinued.

3. That, if the long-term kinship care relative submits a petition for review under par. (g) within the time limit specified in par. (g) 2., the long-term kinship care relative's payments may not be discontinued, except as provided in par. (g) 2. a. or b., until a final decision is rendered on the petition for review, but that payments made pending the decision may be recovered by the county department or department if the discontinuation is upheld.

SECTION 13. 48.57 (3n) (f) of the statutes is amended to read:

48.57 (3n) (f) Any person whose application for payments under par. (am) is not acted on ~~promptly~~ within 45 days after receipt of a completed application or is denied on the grounds that a condition specified in par. (am) 1., 2., 5., 5m., or 5r. has not been met and any person whose payments under par. (am) are discontinued under par. (d) may petition the department under par. (g) for a review of that ~~action or failure to act, denial, or discontinuation.~~ Review is unavailable if the ~~action or failure to act,~~

1 denial, or discontinuation arose more than 45 days before submission of the petition
2 for review.

3 **SECTION 14.** 48.57 (3n)[✓](g) 1. (intro.) of the statutes is amended to read:

4 48.57 (3n) (g) 1. (intro.) Upon receipt of a timely petition under par. (f) the
5 department shall give the applicant or recipient reasonable notice and an
6 opportunity for a fair hearing. The department may make such additional
7 investigation as it considers necessary. Notice of the hearing shall be given to the
8 applicant or recipient and to the county department or subunit of the department
9 whose ~~action or failure to act,~~ denial, or discontinuation is the subject of the petition.
10 That county department or subunit of the department may be represented at the
11 hearing. The department shall render its decision as soon as possible after the
12 hearing and shall send a certified copy of its decision to the applicant or recipient and
13 to the county department or subunit of the department whose ~~action or failure to act,~~
14 denial, or discontinuation is the subject of the petition. The decision of the
15 department shall have the same effect as an order of the county department or
16 subunit of the department whose ~~action or failure to act,~~ denial, or discontinuation
17 is the subject of the petition. The decision shall be final, but may be revoked or
18 modified as altered conditions may require. The department shall deny a petition
19 for review or shall refuse to grant relief if any of the following applies:

20 **SECTION 15.** 48.57 (3n)[✓](g) 2. of the statutes is amended to read:

21 48.57 (3n) (g) 2. If a recipient whose payments under par. (am) are being
22 discontinued on the grounds that an event specified in par. (am) 6. a. to f. has occurred
23 requests a hearing within 10 days after the date of notice that his or her payments
24 under par. (am) are being discontinued or if a recipient whose payments under par.
25 (am) are being discontinued on the grounds that a condition specified in par. (am) 1.

1 to 5r. does not continue to exist requests a hearing before the date on which his or
2 her payments under par. (am) are to be discontinued, those payments may not be
3 discontinued, except as provided in subd. 2. a. or b., until a decision is rendered after
4 the hearing, but payments made pending the hearing decision may be recovered by
5 the county department or department if the ~~contested action or failure to act~~
6 discontinuation is upheld. The department shall promptly notify the county
7 department of the county in which the recipient resides or, if the recipient resides in
8 a county having a population of 500,000 or more, the subunit of the department
9 administering ~~of the~~ long-term kinship care ~~program~~ in that county that the
10 recipient has requested a hearing. Payments under par. (am) shall be discontinued
11 pending a hearing decision if any of the following applies:

12 **SECTION 16.** 48.57 (3p) (a) of the statutes is renumbered 48.57 (3p) (a) (intro.)
13 and amended to read:

14 48.57 (3p) (a) (intro.) In this subsection, ~~“adult resident”~~:

15 1. Adult resident means a person 18 years of age or over who lives at the home
16 of a person who has applied for or is receiving payments under sub. (3m) or (3n) with
17 the intent of making that home his or her home or who lives for more than 30 days
18 cumulative in any 6-month period at the home of a person who has applied for or is
19 receiving payments under sub. (3m) or (3n).

20 **SECTION 17.** 48.57 (3p) (a) 2. of the statutes is created to read:

21 48.57 (3p) (a) 2. “Arrest” means an arrest for a violation for which the person
22 arrested, if convicted, would be disqualified from receiving payments under sub.
23 (3m) for a reason specified in par. (g) 1., 2., or 3.

24 **SECTION 18.** 48.57 (3p) (d) of the statutes is amended to read:

1 48.57 (3p) (d) If the person being investigated under par. (b) or (c) is a
2 nonresident, or at any time within the 5 years preceding the date of the application
3 has been a nonresident, or if the county department or, in a county having a
4 population of 500,000 or more, the department of health and family services
5 determines that the person's employment, licensing, or state court records provide
6 a reasonable basis for further investigation, the county department or department
7 of health and family services shall require the person to be fingerprinted on 2
8 fingerprint cards, each bearing a complete set of the person's fingerprints. The
9 department of justice may provide for the submission of the fingerprint cards to the
10 federal bureau of investigation for the purposes of verifying the identity of the person
11 fingerprinted and obtaining records of his or her ~~eriminal arrest and conviction~~
12 arrests and convictions.

13 [✓]
SECTION 19. 48.57 (3p) (e) 4. of the statutes is amended to read:

14 48.57 (3p) (e) 4. Information regarding the ~~conviction record of the person~~
15 person's record of arrests and convictions under the law of this state or any other
16 state or under federal law. This information shall be provided on a notarized
17 background verification form that the department shall provide by rule.

18 [✓]
SECTION 20. 48.57 (3p) (fm) 1. of the statutes is amended to read:

19 48.57 (3p) (fm) 1. The county department or, in a county having a population
20 of 500,000 or more, the department of health and family services may provisionally
21 approve the making of payments under sub. (3m) based on the applicant's statement
22 under sub. (3m) (am) 4m. The county department or department of health and family
23 services may not finally approve the making of payments under sub. (3m) unless the
24 county department or department of health and family services receives information
25 from the department of justice indicating that the arrest and conviction record of the

1 applicant under the law of this state ~~is satisfactory according to the criteria specified~~
2 ~~in par. (g) 1. to 3. does not include any arrest or conviction that could adversely affect~~
3 ~~the child or the ability of the applicant to care for the child~~ or payment is approved
4 under par. (h) 4. The county department or department of health and family services
5 may make payments under sub. (3m) conditioned on the receipt of information from
6 the federal bureau of investigation indicating that the person's arrest and conviction
7 record under the law of any other state or under federal law ~~is satisfactory according~~
8 ~~to the criteria specified in par. (g) 1. to 3~~ does not include any arrest or conviction that
9 could adversely affect the child or the ability of the applicant to care for the child.

10 SECTION 21. 48.57 (3p[✓]) (fm) 1m. of the statutes is amended to read:

11 48.57 (3p) (fm) 1m. The county department or, in a county having a population
12 of 500,000 or more, the department of health and family services may not enter into
13 the agreement under sub. (3n) (am) 6. unless the county department or department
14 of health and family services receives information from the department of justice
15 ~~relating to the~~ indicating that the arrest and conviction record of the applicant under
16 the law of this state ~~and that record indicates either that the applicant has not been~~
17 ~~arrested or convicted or that the applicant has been arrested or convicted but~~ does
18 not include any arrest or conviction that the director of the county department or, in
19 a county having a population of 500,000 or more, the person designated by the
20 secretary of health and family services to review arrest and conviction records under
21 this subdivision determines ~~that the conviction record is satisfactory because it does~~
22 ~~not include any arrest or conviction that the director or person designated by the~~
23 ~~secretary determines~~ is likely to adversely affect the child or the long-term kinship
24 ~~care relative's~~ applicant's ability to care for the child. The county department or, in
25 a county having a population of 500,000 or more, the department of health and family

1 services may make payments under sub. (3n) conditioned on the receipt of
2 information from the federal bureau of investigation indicating that the person's
3 arrest and conviction record under the law of any other state or under federal law is
4 ~~satisfactory because the conviction record~~ does not include any arrest or conviction
5 that the director of the county department or, in a county having a population of
6 500,000 or more, the person designated by the secretary of health and family services
7 to review arrest and conviction records under this subdivision determines is likely
8 to adversely affect the child or the ~~long-term kinship care relative's~~ person's ability
9 to care for the child.

10 **SECTION 22.** 48.57 (3p) [✓](fm) 2. of the statutes is amended to read:

11 48.57 (3p) (fm) 2. A person receiving payments under sub. (3m) may
12 provisionally employ a person in a position in which that person would have regular
13 contact with the child for whom those payments are being made or provisionally
14 permit a person to be an adult resident if the person receiving those payments states
15 to the county department or, in a county having a population of 500,000 or more, the
16 department of health and family services that the employee or adult resident does
17 not have any arrests or convictions that could adversely affect the child or the ability
18 of the person receiving payments to care for the child. A person receiving payments
19 under sub. (3m) may not finally employ a person in a position in which that person
20 would have regular contact with the child for whom those payments are being made
21 or finally permit a person to be an adult resident until the county department or, in
22 a county having a population of 500,000 or more, the department of health and family
23 services receives information from the department of justice indicating that the
24 person's arrest and conviction record under the law of this state is ~~satisfactory~~
25 ~~according to the criteria specified in par. (g) 1. to 3. and the county department or,~~

1 in a county having a population of 500,000 or more, the department of health and
2 family services so advises the person receiving payments under sub. (3m) does not
3 include any arrest or conviction that could adversely affect the child or the ability of
4 the person receiving payments to care for the child or until a decision is made under
5 par. (h) 4. to permit a person who is receiving payments under sub. (3m) to employ
6 a person in a position in which that person would have regular contact with the child
7 for whom payments are being made or to permit a the person to be so employed or
8 to be an adult resident and the county department or, in a county having a population
9 of 500,000 or more, the department of health and family services so advises the
10 person receiving payments under sub. (3m). A person receiving payments under sub.
11 (3m) may finally employ a person in a position in which that person would have
12 regular contact with the child for whom those payments are being made or finally
13 permit a person to be an adult resident conditioned on the receipt of information ~~from~~
14 by the county department or, in a county having a population of 500,000 or more, the
15 department of health and family services that from the federal bureau of
16 investigation indicates indicating that the person's arrest and conviction record
17 under the law of any other state or under federal law is satisfactory according to the
18 criteria specified in par. (g) 1. to 3 does not include any arrest or conviction that could
19 adversely affect the child or the ability of the person receiving payments to care for
20 the child.

21 **SECTION 23.** 48.57 (3p) (fm) 2m. of the statutes is amended to read:

22 48.57 (3p) (fm) 2m. A person receiving payments under sub. (3n) may
23 provisionally employ a person in a position in which that person would have regular
24 contact with the child for whom those payments are being made or provisionally
25 permit a person to be an adult resident if the person receiving those payments states

1 to the county department or, in a county having a population of 500,000 or more, the
2 department of health and family services that, to the best of his or her knowledge,
3 the employee or adult resident does not have any arrests or convictions that could
4 adversely affect the child or the ability of the person receiving payments to care for
5 the child. A person receiving payment under sub. (3n) may not finally employ a
6 person in a position in which that person would have regular contact with the child
7 for whom those payments are being made or finally permit a person to be an adult
8 resident until the county department or, in a county having a population of 500,000
9 or more, the department of health and family services receives information from the
10 department of justice ~~relating to the person's~~ indicating that the arrest and
11 conviction record of the person under the law of this state ~~and that record indicates~~
12 ~~either that the person has not been arrested or convicted or that the person has been~~
13 ~~arrested or convicted but~~ does not include any arrest or conviction that the director
14 of the county department or, in a county having a population of 500,000 or more, the
15 person designated by the secretary of health and family services to review arrest and
16 conviction records under this subdivision determines ~~that the conviction record is~~
17 ~~satisfactory because it does not include any arrest or conviction that is likely to~~
18 ~~adversely affect the child or the long-term kinship care relative's ability~~ of the person
19 receiving payments to care for the child ~~and the county department or department~~
20 ~~of health and family services so advises the person receiving payments under sub.~~
21 ~~(3n).~~ A person receiving payments under sub. (3n) may finally employ a person in
22 a position in which that person would have regular contact with the child for whom
23 those payments are being made or finally permit a person to be an adult resident
24 conditioned on the receipt of information ~~from~~ by the county department or, in a
25 county having a population of 500,000 or more, the department of health and family

1 services ~~that from~~ the federal bureau of investigation ~~indicates~~ indicating that the
2 person's arrest and conviction record under the law of any other state or under
3 federal law is satisfactory because ~~the conviction record~~ does not include any arrest
4 for which a criminal charge is pending or conviction that the director of the county
5 department or, in a county having a population of 500,000 or more, the person
6 designated by the secretary of health and family services to review arrest and
7 conviction records under this subdivision determines is likely to adversely affect the
8 child or the ~~long-term kinship care relative's~~ ability of the person receiving
9 payments to care for the child.

10 **SECTION 24.** 48.57 (3p) (g) (intro.) of the statutes is amended to read:

11 48.57 (3p) (g) (intro.) Except as provided in par. (h), the county department or,
12 in a county having a population of 500,000 or more, the department of health and
13 family services may not make payments to a person applying for payments under
14 sub. (3m) and a person receiving payments under sub. (3m) may not employ a person
15 in a position in which that person would have regular contact with the child for whom
16 those payments are being made or permit a person to be an adult resident if ~~any of~~
17 the following applies the person has been convicted or penalized as follows and if the
18 county department or the department of health and family services determines that
19 the conviction or penalty is likely to adversely affect the child or the ability of the
20 person applying for or receiving payments to care for the child:

21 **SECTION 25.** 48.57 (3p) (h) 1. of the statutes is amended to read:

22 48.57 (3p) (h) 1. A person who is denied payments under sub. (3m) ~~for a reason~~
23 ~~specified in par. (g) 1., 2. or 3.~~ based on the person's arrest or conviction record, a
24 person whose payments under sub. (3m) are discontinued based on the person's
25 arrest or conviction record, or a person who is prohibited from employing a person

1 in a position in which that person would have regular contact with the child for whom
2 payments under sub. (3m) are being made or from permitting a person to be an adult
3 resident ~~for a reason specified in par. (g) 1., 2. or 3.~~ based on the person's arrest or
4 conviction record may request that the denial or discontinuation of payments or the
5 prohibition on employment or being an adult resident be reviewed under subd. 2.
6 Review is unavailable if the denial, discontinuation, or prohibition occurred more
7 than 45 days before submission of the request for review.

8 **SECTION 26.** 48.57 (3p) (h) 2m. of the statutes is created to read:

9 48.57 (3p) (h) 2m. If a person whose payments under sub. (3m) are being
10 discontinued based on the person's arrest or conviction record requests a review
11 before the date on which those payments are to be discontinued, those payments may
12 not be discontinued, except as provided in subd. 2m. a. or b., until a decision is
13 rendered after the review but payments made pending the review decision may be
14 recovered by the county department or department if the discontinuation is upheld.
15 Payments under sub. (3m) shall be discontinued if any of the following applies:

16 a. The person is contesting a state law or a change in state law and not the
17 determination of the payment made on the person's behalf.

18 b. The person is notified of a change in his or her payments under sub. (3m)
19 while the review decision is pending but the person fails to request a review of the
20 change.

21 **SECTION 27.** 48.57 (3p) (h) 3. of the statutes is amended to read:

22 48.57 (3p) (h) 3. The director of the county department, the person designated
23 by the governing body of a federally recognized American Indian tribe or band or, in
24 a county having a population of 500,000 or more, the person designated by the
25 secretary of health and family services shall review the denial or discontinuation of

1 payments or the prohibition on employment or being an adult resident to determine
2 if the arrest or conviction record on which the denial, discontinuation, or prohibition
3 is based ~~includes any arrests, convictions or penalties that are~~ is likely to adversely
4 affect the child or the ability of the ~~kinship-care relative~~ person to care for the child.
5 In reviewing the denial, discontinuation, or prohibition, the director of the county
6 department, the person designated by the governing body of the federally recognized
7 American Indian tribe or band or the person designated by the secretary of health
8 and family services shall consider, but not be limited to, all of the following factors:

9 a. The length of time between the date of the arrest, conviction, or ~~of the~~
10 imposition of the penalty and the date of the review.

11 b. The nature of the ~~violation~~ arrest, conviction, or penalty and how that
12 ~~violation~~ arrest, conviction, or penalty affects the ability of the ~~kinship-care relative~~
13 petitioner to care for the child.

14 c. Whether ~~making an exception to the denial, discontinuation~~, or prohibition
15 ~~would be~~ is in the best interests of the child.

16 **SECTION 28.** 48.57 (3p) (h) 4. of the statutes is amended to read:

17 48.57 (3p) (h) 4. If the director of the county department, the person designated
18 by the governing body of the federally recognized American Indian tribe or band, or,
19 in a county having a population of 500,000 or more, the person designated by the
20 secretary of health and family services determines that the arrest or conviction
21 record on which the denial or discontinuation of payments or the prohibition on
22 employment or being an adult resident is based does not include any arrests,
23 convictions, or penalties that are likely to adversely affect the child or the ability of
24 the ~~kinship-care relative~~ person requesting the review to care for the child, the
25 director of the county department, the person designated by the governing body of

1 the federally recognized American Indian tribe or band, or the person designated by
2 the secretary of health and family services may approve the making of payments
3 under sub. (3m) or may permit a person receiving payments under sub. (3m) to
4 employ a person in a position in which that person would have regular contact with
5 the child for whom payments are being made or permit a person to be an adult
6 resident.

7 **SECTION 29.** 48.57 (3p) (h) 5. of the statutes is amended to read: ✓

8 48.57 (3p) (h) 5. A decision under this paragraph is not subject to review under
9 ~~ch. 227 par. (hg).~~

10 **SECTION 30.** 48.57 (3p) (hg) of the statutes is created to read: ✓

11 48.57 (3p) (hg) 1. If on review under par. (h) a denial or discontinuation of
12 payments under sub. (3m) or a prohibition on employment or being an adult resident
13 is upheld, the person who requested the review may petition the department under
14 subd. 2. for a review of that denial, discontinuation, or prohibition. Review is
15 unavailable if the denial, discontinuation, or prohibition arose more than 45 days
16 before submission of the petition for review.

17 2. Upon receipt of a timely petition under subd. 1. the department shall give
18 the petitioner reasonable notice and an opportunity for a fair hearing. The
19 department may make such additional investigation as it considers necessary.
20 Notice of the hearing shall be given to the petitioner and to the county department
21 or subunit of the department whose denial, discontinuation, or prohibition is the
22 subject of the petition. That county department or subunit of the department may
23 be represented at the hearing. The department shall render its decision as soon as
24 possible after the hearing and shall send a certified copy of its decision to the
25 applicant or recipient and to the county department or subunit of the department

1 whose denial, discontinuation, or prohibition is the subject of the petition. The
2 decision of the department shall have the same effect as an order of the county
3 department or subunit of the department whose denial, discontinuation, or
4 prohibition is the subject of the petition. The decision shall be final, but may be
5 revoked or modified as altered conditions may require. The department shall deny
6 a petition for review or shall refuse to grant relief if any of the following applies:

7 a. The petitioner withdraws the petition in writing.

8 b. The sole issue in the petition concerns a change that affects an entire class
9 of recipients and is the result of a change in state law.

10 c. The petitioner abandons the petition. Abandonment occurs if the petitioner
11 fails to appear in person or by a representative at a scheduled hearing without good
12 cause, as determined by the department.

13 3. If a person whose payments under sub. (3m) are being discontinued based
14 on the person's arrest or conviction record requests a hearing before the date on
15 which those payments are to be discontinued, those payments may not be
16 discontinued, except as provided in subd. 3. a. or b., until a decision is rendered after
17 the hearing but payments made pending the hearing decision may be recovered by
18 the county department or department if the discontinuation is upheld. The
19 department shall promptly notify the county department of the county in which the
20 person resides or, if the person resides in a county having a population of 500,000 or
21 more, the subunit of the department administering kinship care in that county that
22 the person has requested a hearing. Payments under sub. (3m) shall be discontinued
23 if any of the following applies:

24 a. The person is contesting a state law or a change in state law and not the
25 determination of the payment made on the person's behalf.

1 b. The person is notified of a change in his or her payments under sub. (3m)
2 while the hearing decision is pending but the person fails to request a hearing on the
3 change.

4 4. The person requesting the hearing shall be promptly informed in writing if
5 his or her payments under sub. (3m) are to be discontinued pending the hearing
6 decision.

7 **SECTION 31.** 48.57 (3p) (hm) of the statutes is amended to read:

8 48.57 (3p) (hm) A county department or, in a county having a population of
9 500,000 or more, the department may not make payments to a person under sub. (3n)
10 and a person receiving payments under sub. (3n) may not employ a person in a
11 position in which that person would have regular contact with the child for whom
12 payments are being made or permit a person to be an adult resident if the director
13 of the county department or, in a county having a population of 500,000 or more, the
14 person designated by the secretary to review arrest and conviction records under this
15 paragraph determines that the person has any arrest or conviction that is likely to
16 adversely affect the child or the ~~long-term kinship care relative's~~ ability of the person
17 receiving payments to care for the child.

18 **SECTION 32.** 48.57 (3r) of the statutes is created to read:

19 48.57 (3r) If the amounts in the appropriation under s. 20.435 (3) (kc) are
20 insufficient to provide payments under sub. (3m) (am) (intro.) or (3n) (am) (intro.) to
21 all persons who are eligible to receive those payments, the department may request
22 the secretary of administration under s. 16.515 to supplement that appropriation for
23 the purpose of increasing funding for those payments. Notwithstanding s. 16.515 (1),
24 the secretary of administration may supplement the appropriation under s. 20.435
25 (3) (kc) if all of the following occur:

(a) The secretary of administration determines that the amounts in the appropriation are insufficient to provide payments under sub. (3m) (am) (intro.) or (3n) (am) (intro.) to all persons who are eligible to receive those payments.

(b) The joint committee on finance either does not schedule a meeting for the purpose of reviewing the proposed supplementation within 14 working days after the secretary of administration notifies the committee of the proposed supplementation or, if the committee schedules a meeting for the purpose of reviewing the proposed supplementation, the committee approves the proposed supplementation.

SECTION 33. 48.57 (3t) of the statutes is amended to read:

48.57 (3t) Notwithstanding subs. (3m), (3n), and (3p), the department may enter into an agreement with the governing body of a federally recognized American Indian tribe or band to allow that governing body to administer the program under subs. (3m), (3n), and (3p) within the boundaries of that reservation. Any agreement under this subsection relating to the administration of the program under sub. (3m) shall specify the person with whom a request for review under sub. (3p) (h) 2. may be filed and the person who has been designated by the governing body to conduct the review under sub. (3p) (h) 3. and make the determination under sub. (3p) (h) 4. Any agreement under this subsection relating to the administration of the program under sub. (3n) shall specify who is to make any determination as to whether ~~a~~ an arrest and conviction record is satisfactory.

SECTION 34. 48.979 of the statutes is created to read:

48.979 Authorization to consent to health services. (1) DEFINITIONS. In this section:

(a) "Caregiver" means an individual ~~who has attained~~ 18 years of age ^{or} ~~with whom a child resides~~ or over who resides with a child, provides care for a child, or exercises supervision or control over a child.
 (care and supervision over a child)
 (temporary or permanent)

1 (b) "Health care facility" has the meaning given in s. 155.01 (6).

2 (c) "Health care provider" has the meaning given in s. 146.81 (1).

3 (d) "Health services" means any emergency or nonemergency care, treatment,
4 service, or procedure to maintain, diagnose, or treat a physical or mental condition.

5 (2) AUTHORIZING A CAREGIVER TO CONSENT TO HEALTH SERVICES. (a) A parent may
6 authorize a caregiver to consent to health services for the parent's child by
7 completing a health services consent form.

8 (b) A valid health services consent form shall be all of the following:

9 1. In writing.

10 2. Dated and signed by the parent and the caregiver whom the parent is
11 authorizing to consent to health services for the child.

12 3. Voluntarily executed.

13 (c) A health services consent form under this section shall remain in effect for
14 the period of time specified on the form, which period may not exceed one year from
15 the date on which the form is executed, unless the form is revoked or otherwise made
16 invalid earlier.

17 (d) Nothing in this section shall be construed to make invalid other instruments
18 that are voluntarily executed by a parent authorizing an individual or other entity
19 to consent to health services for the parent's child.

20 (3) EFFECT OF HEALTH SERVICES CONSENT FORM; FORM. (a) Unless the health
21 services consent form, a guardianship order, or any other court order provides
22 otherwise, a caregiver designated in a health services consent form ~~who is known to~~
23 ~~a health care provider to be~~ available to consent to health services for a child has
24 priority over all other individuals other than a parent who is not currently denied

~~who is known to~~ whom a health care provider knows knows is

periods of physical placement with the child to make health services decisions as provided in the health services consent form.

(b) The department shall prepare the health services consent form and accompanying information. The department shall include, in information accompanying the form, at least the statutory definitions of the terms used in the form. The department shall prepare the form and accompanying information in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the department. The department shall make the health services consent form available at no charge on the Internet. The health services consent form prepared by the department shall be in substantially the following form:

HEALTH SERVICES CONSENT

Use of form: Use of this form is voluntary, but completion of the form will aid the caregiver of a child in ensuring that appropriate and timely health care is provided for the child. The form is to be completed by the parent of a child who is being cared for by another adult.

Instructions: If additional space is needed, attach a separate sheet or use reverse side of this form.

AUTHORIZATION TO CONSENT TO HEALTH SERVICES

I, (print name of parent), hereby authorize my child's caregiver (print name of caregiver), with whom my child, (print name and date of birth of child) is currently residing, to do the following for my child:

who resides with another adult or

who currently resides with ~~and~~ ^{or} is providing care for (cross out "currently resides with ~~and~~ ^{or} is providing care form, if inapplicable)

(Print name of child),

of my child, (print name of child)

~~I have no objections to the caregiver exercising his or her authority to consent~~
~~to the release of patient health care records as provided above, with the following~~
~~exceptions: (If there are no exceptions, write "none.")~~

Date

I understand that (name of parent) has authorized me to make health services decisions for (name of child). I agree to make health services decisions

for the above-named child consistent with what I and the child's health care providers believe is in the child's best interest, consistent with the authority granted in this form, and consistent with any other wishes or beliefs of the child's parent of which I am aware.

Signature of Caregiver

Date

CONTACT INFORMATION

A. Parent:

Name (print)

Home address

Home telephone number

Work address

Work telephone number

Other address (specify)

Other telephone number

B. Caregiver:

Name (print)

Home address

Home telephone number

Work address

Work telephone number

Other address (specify)

Other telephone number

(4) REVOCATION OF HEALTH SERVICES FORM. (a) A parent may revoke a health services consent form at any time by doing any of the following:

1. Canceling, defacing, obliterating, burning, tearing, or otherwise destroying the health services consent form.

2. Executing a statement, in writing, that is signed and dated by the parent, expressing the parent's intent to revoke the health services consent form.

3. Executing a subsequent health services consent form.

(b) A health services consent form is not valid if the child no longer resides with the caregiver.

1 (c) If a caregiver knows that the instrument that authorized him or her to make
2 health services decisions for a child has been revoked or is no longer valid, the
3 caregiver shall communicate this fact to any health care provider for the child that
4 the caregiver knows has a copy of the health services consent form.

5 (d) The child's health care provider shall, upon notification of revocation or
6 invalidity of the health services consent form, record in the child's medical record the
7 time, date, and place of the notification to the health care provider of the revocation
8 or invalidity.

9 (5) DUTIES AND IMMUNITIES. (a) No health care facility or health care provider
10 may be charged with a crime, held civilly liable, or charged with unprofessional
11 conduct for any of the following in providing health services under a health services
12 consent form:

13 1. Complying, in the absence of actual knowledge of a revocation, with the
14 terms of a health services consent form that is in compliance with this section or the
15 decision of a caregiver that is made under a health services consent form that is in
16 compliance with this section.

17 2. Acting contrary to or failing to act on a revocation of a health services consent
18 form, unless the health care facility or health care provider has actual knowledge of
19 the revocation.

20 3. Acting contrary to or failing to act on the health services decision of a parent
21 who is not currently denied periods of physical placement with the child, unless the
22 health care facility or health care provider has actual knowledge of the parent's
23 health services decision.

24 (b) In the absence of actual notice to the contrary, a health care facility or health
25 care provider may presume that a parent was authorized to execute the health

1 services consent form under the requirements of this section and that the form is
2 valid.

3 (c) No caregiver may be charged with a crime or held civilly liable for making
4 a decision in good faith under a health services consent form that is in compliance
5 with this section.

6 (6) PENALTIES. (a) Whoever knowingly falsifies or forges a health services
7 consent form with intent to create the false impression that a person other than the
8 caregiver has been designated to consent to health services for a child is subject to
9 a forfeiture not to exceed \$200.

10 (b) Whoever gives or attempts to give consent for health services based on a
11 health services consent form that the individual knows has been executed without
12 the voluntary consent of the parent, that the individual knows has been forged or
13 substantially altered without the authorization of the child's parent, or that the
14 individual knows has been revoked, with the intent to act contrary to the parent's
15 wishes may be fined not more than \$500 or imprisoned for not more than 30 days or
16 both.

17 **SECTION 35.** 49.155 (5) of the statutes is renumbered 49.155 (5) (a) and
18 amended to read:

19 49.155 (5) (a) An individual is liable for the percentage of the cost of the child
20 care specified by the department in a printed copayment schedule except as provided
21 in pars. (b), (c), and (d).

22 (b) An individual who is under the age of 20 and is attending high school or
23 participating in a course of study meeting the standards established under s. 115.29
24 (4) for the granting of a declaration of equivalency to high school graduation may not

1 be determined liable for more than the minimum copayment amount for the type of
2 child care received and the number of children receiving child care.

3 **SECTION 36.** 49.155 (5) (c) and (d) of the statutes are created to read:

4 49.155 (5) (c) An individual who is receiving payments under s. 48.57 (3m) or
5 (3n) for providing care and maintenance for a child is not liable for a copayment for
6 the child.

7 (d) An individual who the department specifies, by rule, is not liable for a
8 copayment.

9 **SECTION 37.** 880.08 (3) (am) (intro.) of the statutes is amended to read:

10 880.08 (3) (am) (intro.) When the proposed ward is a minor, notice shall be
11 given as provided in s. 879.05 to all of the following persons, if applicable, except that
12 notice required to be given by publication shall be published as a class 1 notice:

13 **SECTION 38. Nonstatutory provisions.**

14 (1) GUARDIANSHIP AND LEGAL CUSTODY OF CHILDREN. The joint legislative council
15 is requested to study state laws regarding guardianship and legal custody of children
16 and the rights and responsibilities of guardians and legal custodians of children. If
17 the joint legislative council conducts the study, the joint legislative council shall
18 report its findings, conclusions, and recommendations to the legislature in the
19 manner provided under section 13.172 (2) of the statutes by January 1, 2005.

20 (2) KINSHIP CARE FUNDING MANAGEMENT. The department of health and family
21 services shall study methods to manage the funding appropriated for kinship care
22 payments in order to minimize the need for waiting lists for kinship care payments.
23 The department shall submit a report summarizing the results of the study to the

1 appropriate standing committees of the legislature in the manner provided under
2 section 13.172 (3) of the statutes by June 30, 2004.

3 (END)

JH alt.

50206

Anne 2/13
Supervised

- ① ✓ still eligible for payments if temporarily out of home for w/ intent to return of 90 days or less

✓ p 5, & 11 delete alt. "longer"

- ✓ ② Arrest return to current & env

don't wait 2-step review for arrests,
only for convictions
only → Fair hearing

Conviction (3p) (h)

Arrest (3m) (d)

(3m) (d)

just fair hearing for arrest
like other grounds

- ✓ ③ Notice of discontinuance

Arrest complete in 30 days & no
petition

- ✓ ④ p 12, & 3 & 10 is likely to appeal

p 16, & 4 & 19 " " " "

- ✓ ⑤ p 21, & 16 was upheld max. 45 days

- ✓ ⑥ p 31, & 1 who is eligible to receive

⑥ Arrest (3p) (a) "Arrest"
"party"



State of Wisconsin

2003 - 2004 LEGISLATURE

Tues 2/17 4:00 pm

LRBs0206/7
GMM:kjf/16

3
Pur

ASSEMBLY SUBSTITUTE AMENDMENT, TO 2003 ASSEMBLY BILL 201

Reyen

1 AN ACT *to renumber* 48.57 (3m) (a) 1. and 48.57 (3n) (a) 1.; *to renumber and*
2 *amend* 48.57 (3m) (d), 48.57 (3n) (d), 48.57 (3p) (a) and 49.155 (5); *to amend*
3 48.57 (3m) (am) 2., 48.57 (3m) (f), 48.57 (3m) (g) 1. (intro.), 48.57 (3m) (g) 2.,
4 48.57 (3n) (f), 48.57 (3n) (g) 1. (intro.), 48.57 (3n) (g) 2., 48.57 (3p) (d), 48.57 (3p)
5 (e) 4., 48.57 (3p) (fm) 1., 48.57 (3p) (fm) 1m., 48.57 (3p) (fm) 2., 48.57 (3p) (fm)
6 2m., 48.57 (3p) (g) (intro.), 48.57 (3p) (h) 1., 48.57 (3p) (h) 3., 48.57 (3p) (h) 4.,
7 48.57 (3p) (h) 5., 48.57 (3p) (hm), 48.57 (3t) and 880.08 (3) (am) (intro.); and *to*
8 *create* 48.57 (3m) (a) 1d., 48.57 (3m) (d) 1. to 4., 48.57 (3n) (a) 1d., 48.57 (3n)
9 (d) 1. to 3., 48.57 (3p) (a) 2., 48.57 (3p) (h) 2m., 48.57 (3p) (hg), 48.57 (3r), 48.979
10 and 49.155 (5) (c) and (d) of the statutes; **relating to:** kinship care, notice of
11 guardianship proceedings, creating a health services consent form, requesting

- 1 the Joint Legislative Council to study guardianship and legal custody, granting
2 rule-making authority, and providing penalties.

Analysis by the Legislative Reference Bureau

Introduction

This substitute amendment makes various changes relating to kinship care and long-term kinship care, under which certain relatives of a child who provide care and maintenance for the child and who meet certain other conditions are eligible to receive monthly payments from the county department of human services or social services (county department) or, in Milwaukee County, the Department of Health and Family Services (DHFS). Those changes include changes relating to eligibility for kinship care and long-term kinship care, the procedures for discontinuing kinship care or long-term kinship care payments, copayment liability for child care provided for a kinship care or long-term kinship care relative, and funding of kinship care. The substitute amendment also changes the manner in which notice of a guardianship proceeding in which the proposed ward is a minor must be provided, creates a health services consent form that a parent may use to authorize a caregiver to consent to health services for the parent's child, and requests the Joint Legislative Council to study state laws regarding guardianship and legal custody of children and the rights and responsibilities of guardians and legal custodians of children.

Kinship care

Under current law, one of the conditions that must be met in order for a relative who is providing care and maintenance for a child to be eligible to receive kinship care payments is that the county department or DHFS must determine that the child meets a criterion for the child or juvenile in need of protection or services jurisdiction of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code, for example, the child has been the victim of abuse or neglect, or that the child would be at risk of meeting a criterion for that jurisdiction if the child were to remain in his or her home.

This substitute amendment provides that a relative who is providing care and maintenance for a child is eligible to receive kinship care payments if the child has been living with a relative for two years or longer ~~and the county department or DHFS determines that the child's parents have consented to the living arrangement and that the living arrangement is not contrary to the health, safety, or welfare of the child.~~

Under current law, another condition that must be met in order for a relative who is providing care and maintenance for a child to be eligible to receive kinship care payments or long-term kinship care payments is that the county department or DHFS must conduct a background investigation of the relative, any employee or prospective employee of the relative who has or would have regular contact with the child, and any adult resident of the relative's home to determine if any of those individuals has any arrests or convictions that ~~would~~ adversely affect the child or the

is likely to

The substitute amendment, however, prohibits a county department or DHFS from discontinuing those payments on the grounds that the ~~kinship~~ ^{care} relative is no longer providing care and maintenance for the child if the child is outside the home of the relative for 90 days or less with the intent of returning to the home relative's ability to care for the child. Currently, a county department or DHFS may consider any arrest in making that determination.

This substitute amendment limits the arrests that a county department or DHFS may consider in determining eligibility for kinship or long-term kinship care payments to arrests for a crime against life or bodily security, a crime against sexual morality, or a crime against children, subject to certain exceptions, including an exception for an arrest for prostitution, patronizing a prostitute, or pandering that occurred 20 years or more before the background investigation.

Under current law, at least once every 12 months after a county department or DHFS begins making kinship care or long-term kinship care payments to a relative who is providing care and maintenance for a child, the county department or DHFS is required to determine if the relative is still eligible to receive those payments. If the relative is no longer eligible to receive those payments, the county department or DHFS is required to discontinue making those payments.

This substitute amendment requires a county department or DHFS to discontinue making kinship care or long-term kinship care payments effective immediately upon notice if the relative is no longer providing care and maintenance for the child and to discontinue making those payments not less than 10 days after providing notice of discontinuation if the payments are being discontinued on any other grounds.

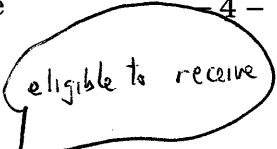
Under current law, a relative whose application for kinship care payments is denied or whose kinship care payments are discontinued on any grounds other than ~~arrest~~ conviction record may appeal that denial or discontinuation to DHFS while a relative whose application for kinship care payments is denied or whose kinship care payments are discontinued on the grounds of ~~arrest~~ conviction record may request the director of the county department or, in Milwaukee County, a person designated by the secretary of health and family services to review the denial or discontinuation and determine whether the ~~arrest~~ conviction could adversely affect the child or the relative's ability to care for the child. based on conviction record

This substitute amendment permits a determination by a director of a county department or, in Milwaukee County, a person designated by the secretary of health and family services upholding a denial or discontinuation of kinship care payments to be appealed to DHFS.

Under current law, if a relative whose kinship care or long-term kinship care payments are discontinued requests a hearing within 10 days after the date of notice of the discontinuation, those payments may not be discontinued until a decision is rendered after hearing, subject to certain exceptions and subject to the right of the county department or DHFS to recover those payments if the discontinuation is upheld.

This substitute amendment permits kinship care and long-term kinship payments to continue pending a decision rendered after hearing, in the case of a relative whose payments are discontinued on any grounds other than the grounds that the relative is no longer providing care and maintenance for the child, if the relative requests a hearing before the date on which the payments are to be discontinued. The substitute amendment does not change current law regarding

The substitute amendment also requires DHFS to render its decision no later than 30 days after receipt of the petition for review.



eligible to receive

continuation of payments pending a decision rendered after hearing in the case of a relative whose payments are discontinued on the grounds that the relative is no longer providing care and maintenance for the child.

Under current law, a person who is receiving kinship care or long-term kinship care payments and who is receiving a child care subsidy under the Wisconsin Works Program is liable for a percentage of the cost of the child care as specified by the Department of Workforce Development. This substitute amendment exempts a person who is ~~receiving~~ kinship care or long-term kinship care payments from that liability.

Finally, with respect to kinship care and long-term kinship care payments, the substitute amendment permits DHFS to request the secretary of administration to provide supplemental funding for those payments if the amounts appropriated for those payments are insufficient to provide those payments to all persons who are eligible to receive those payments and requires DHFS to study methods to manage the funding appropriated for kinship care payments in order to minimize the need for waiting lists for those payments.

Notice of guardianship proceeding

Under current law, if notice of a guardianship proceeding in which the proposed ward is a minor cannot be served personally on the proposed ward's spouse, parents, legal custodian, or physical custodian, or the proposed ward, if 14 years of age or over (interested party), notice of the proceeding must be given by mail, together with publication of the notice three times in a newspaper that is published in the county of the proceeding. This substitute amendment permits notice of a guardianship proceeding in which the proposed ward is a minor to be given by mail, together with *one* newspaper publication of the notice, when an interested party cannot be served personally.

Health services consent form

Under current law, a guardian of a child has the duty and authority to consent to major medical, psychiatric, and surgical treatment for the child and a legal custodian of a child has the right and duty to provide ordinary medical and dental care for the child. In the absence of guardianship or legal custody, however, a person who resides with a child or provides temporary or permanent care and supervision for a child (caregiver) does not have the authority to consent to health services for the child.

This substitute amendment creates a health services consent form that a parent may use to authorize a caregiver to consent to health services for the parent's child and to consent to the release of the child's patient health care records. Under the substitute amendment, a caregiver designated in a health services consent form has priority over all other individuals, other than a parent who is not currently denied periods of physical placement with the child, to make health care decisions as provided in the health services consent form. A health services consent form remains in effect for the time specified in the form, which may be for up to one year, may be revoked by the parent at any time, and is invalid if the child no longer lives with the caregiver. A health care provider or health care facility is immune from liability for complying with the decision of a caregiver that is made under a health

services consent form and for acting contrary to a revocation of a health services consent form or a health services decision of a parent who is not currently denied periods of physical placement with the child, if the health care provider or health care facility does not have actual knowledge of the revocation or parent's decision. Similarly, a caregiver is immune from liability for making a decision in good faith under a health services consent form.

Guardianship and legal custody study

Finally, the substitute amendment requests the Joint Legislative Council to study state laws regarding guardianship and legal custody of children and the rights and responsibilities of guardians and legal custodians of children and, if the Joint Legislative Council conducts that study, to report its findings, conclusions, and recommendations to the legislature by January 1, 2005.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 48.57 (3m) (a) 1. of the statutes is renumbered 48.57 (3m) (a) 1r.

2 SECTION 2. 48.57 (3m) (a) 1d. of the statutes is created to read:

3 48.57 (3m) (a) 1d. "Arrest" has the meaning given in sub. (3p) (a) 2.

4 SECTION 3. 48.57 (3m) (am) 2. of the statutes is amended to read:

5 48.57 (3m) (am) 2. The county department or department determines that the
6 child meets one or more of the criteria specified in s. 48.13 or 938.13, that the child
7 would be at risk of meeting one or more of those criteria if the child were to remain
8 in his or her home, or, if the child is 18 years of age or over, that the child would meet
9 or be at risk of meeting one or more of those criteria as specified in this subdivision
10 if the child were under 18 years of age; or the child has been living with the kinship
11 care relative for 2 years or longer and the county department or department
12 determines that the child's parents have consented to the living arrangement and
13 that the living arrangement is not contrary to the health, safety, or welfare of the
14 child.

Insert
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on the grounds that the kinship care relative is no longer providing care and maintenance for the child.

SECTION 4

, except that the county department or department may not discontinue making those payments ~~if the child is~~ outside the home of the kinship care relative for 90 days or less with the

SECTION 48.57 (3m) (d) of the statutes is renumbered 48.57 (3m) (d) (intro.)

and amended to read:

intent of returning to the home

48.57 (3m) (d) (intro.) A county department or, in a county having a population of 500,000 or more, the department shall review a placement of a child for which the county department or department makes payments under par. (am) not less than every 12 months after the county department or department begins making those payments to determine whether the kinship care relative is still providing care and maintenance for the child and whether the conditions specified in par. (am) 1. to 6. continue to exist. ~~If those conditions~~ If the kinship care relative is no longer providing care and maintenance for the child, the county department or department shall discontinue making those payments effective immediately upon providing written notice of the discontinuation to the kinship care relative. If any of the conditions specified in par. (am) 1. to 6. do not continue to exist, the county department or department shall discontinue making those payments after providing the kinship care relative whose payments are being discontinued with written notice of that discontinuation not less than 10 days before the date on which those payments are to be discontinued. The notice shall advise the kinship care relative of all of the following:

SECTION 48.57 (3m) (d) 1. to 4. of the statutes are created to read:

48.57 (3m) (d) 1. That, if the payments are being discontinued on the grounds that the kinship care relative is no longer providing care and maintenance for the child, the kinship care relative may petition the department under par. (g) for a review of that discontinuation by submitting a petition for review within 45 days after the date of the notice of discontinuation.

or based on ~~any~~ arrest record

1 2. That, if the payments are being discontinued on the grounds that a condition
2 specified in par. (am) 1., 2., 5., 5m., or 6. does not continue to exist, the kinship care
3 relative may petition the department under par. (g) for a review of that
4 discontinuation by submitting a petition for review within 45 days after the date on
5 which those payments are discontinued.

6 3. That, if the payments are being discontinued based on ~~previous~~ conviction
7 record, the kinship care relative may request a review of that discontinuation by
8 submitting a request for review under sub. (3p) (h) 2. within 45 days after the date
9 on which those payments are discontinued.

10 4. That, if the kinship care relative submits a petition for review under par. (g)
11 or sub. (3p) (h) within the applicable time limit specified in par. (g) 2., or sub. (3p) (h)
12 2m., the kinship care relative's payments may not be discontinued, except as
13 provided in par. (g) 2. a. or b. or sub. (3p) (h) 2m. a. or b., until a final decision is
14 rendered on the petition for review, but that payments made pending the decision
15 may be recovered by the county department or department if the discontinuation is
16 upheld.

17 ~~SECTION 48.57~~ (3m) (f) of the statutes is amended to read:

18 48.57 (3m) (f) Any person whose application for payments under par. (am) is
19 not acted on ~~promptly~~ within 45 days after receipt of a completed application or is
20 denied on the grounds that a condition specified in par. (am) 1., 2., 5., 5m., or 6. has
21 not been met and any person whose payments under par. (am) are discontinued
22 under par. (d) 1. or 2. may petition the department under par. (g) for a review of that action
23 or failure to act, denial, or discontinuation. Review is unavailable if the ~~action or~~
24 failure to act, denial, or discontinuation arose more than 45 days before submission
25 of the petition for review.

No later than 30 days after receipt of the petition
under par. (f)

SECTION ~~8~~ 48.57 (3m) (g) 1. (intro.) of the statutes is amended to read:

48.57 (3m) (g) 1. (intro.) Upon receipt of a timely petition under par. (f) the department shall give the applicant or recipient reasonable notice and an opportunity for a fair hearing. The department may make such additional investigation as it considers necessary. Notice of the hearing shall be given to the applicant or recipient and to the county department or subunit of the department whose ~~action or failure to act, denial, or discontinuation~~ is the subject of the petition. That county department or subunit of the department may be represented at the hearing. The department shall render its decision ~~as soon as possible after the hearing~~ and shall send a certified copy of its decision to the applicant or recipient and to the county department or subunit of the department whose ~~action or failure to act, denial, or discontinuation~~ is the subject of the petition. The decision of the department shall have the same effect as an order of the county department or subunit of the department whose ~~action or failure to act, denial, or discontinuation~~ is the subject of the petition. The decision shall be final, but may be revoked or modified as altered conditions may require. The department shall deny a petition for review or shall refuse to grant relief if any of the following applies:

SECTION ~~8~~ 48.57 (3m) (g) 2. of the statutes is amended to read:

48.57 (3m) (g) 2. If a recipient whose payments under par. (am) are being discontinued on the grounds that the recipient is no longer providing care and maintenance for the child requests a hearing within 10 days after the date of notice that his or her payments under par. (am) are being discontinued or if a recipient whose payments under par. (am) are being discontinued on the grounds that a condition specified in par. (am) 1., 2., 5., 5m., or 6. does not continue to exist requests a hearing before the date on which his or her payments under par. (am) are to be

or on the grounds of arrest record

except that the county department or department may not discontinue making those payments ~~on~~ on the grounds that the long-term kinship care relative is no longer providing care and maintenance for the child if the child is outside the home of the long-term kinship care relative for 90 days or less with the intent of returning to the home

discontinued, those payments may not be discontinued, except as provided in subd.

2. a. or b., until a decision is rendered after the hearing, but payments made pending the hearing decision may be recovered by the county department or department if the contested action or failure to act discontinuation is upheld. The department shall promptly notify the county department of the county in which the recipient resides or, if the recipient resides in a county having a population of 500,000 or more, the subunit of the department administering of the kinship care program in that county that the recipient has requested a hearing. Payments under par. (am) shall be discontinued pending a hearing decision if any of the following applies:

SECTION ~~9~~ 48.57 (3n) (a) 1. of the statutes is renumbered 48.57 (3n) (a) 1r.

SECTION ~~10~~ 48.57 (3n) (a) 1d. of the statutes is created to read:

48.57 (3n) (a) 1d. "Arrest" has the meaning given in sub. (3p) (a) 2.

SECTION ~~11~~ 48.57 (3n) (d) of the statutes is renumbered 48.57 (3n) (d) (intro.)

and amended to read:

48.57 (3n) (d) (intro.) The county department or, in a county having a population of 500,000 or more, the department shall, at least once every 12 months after the county department or department begins making payments under this subsection, determine whether the conditions specified in par. (am) 1. to 5r. continue to exist and whether any of the events specified in par. (am) 6. a. to f. have has occurred. If any such events have event specified in par. (am) 6. a. to f. has occurred, the county department or department shall discontinue making those payments immediately upon providing written notice of the discontinuation to the long-term kinship care relative. If any of the conditions specified in par. (am) 1. to 5r. do not continue to exist, the county department or department shall discontinue making those payments after providing the long-term kinship care relative whose payments

1 are being discontinued with written notice of that discontinuation not less than 10
2 days before the date on which those payments are to be discontinued. The notice
3 shall advise the long-term kinship care relative of all of the following:

4 SECTION ~~12~~ 48.57 (3n) (d) 1. to 3. of the statutes are created to read:

5 48.57 (3n) (d) 1. That, if the payments are being discontinued on the grounds
6 that an event specified in par. (am) 6. a. to f. has occurred, the long-term kinship care
7 relative may petition the department under par. (g) for a review of that
8 discontinuation by submitting a petition for review within 45 days after the date of
9 the notice of discontinuation.

10 2. That, if the payments are being discontinued on the grounds that a condition
11 specified in par. (am) 1. to 5r. does not continue to exist, the long-term kinship care
12 relative may petition the department under par. (g) for a review of that
13 discontinuation by submitting a petition for review within 45 days after the date on
14 which those payments are discontinued.

15 3. That, if the long-term kinship care relative submits a petition for review
16 under par. (g) within the time limit specified in par. (g) 2., the long-term kinship care
17 relative's payments may not be discontinued, except as provided in par. (g) 2. a. or
18 b., until a final decision is rendered on the petition for review, but that payments
19 made pending the decision may be recovered by the county department or
20 department if the discontinuation is upheld.

21 SECTION ~~13~~ 48.57 (3n) (f) of the statutes is amended to read:

22 48.57 (3n) (f) Any person whose application for payments under par. (am) is not
23 acted on promptly within 45 days after receipt of a completed application or is denied
24 on the grounds that a condition specified in par. (am) 1., 2., 5., 5m., or 5r. has not been
25 met and any person whose payments under par. (am) are discontinued under par. (d)

no later than 30 days after receipt of the petition under
par. (f)

1 may petition the department under par. (g) for a review of that ~~action or failure to~~
2 act, denial, or discontinuation. Review is unavailable if the ~~action or failure to act,~~
3 denial, or discontinuation arose more than 45 days before submission of the petition
4 for review.

5 SECTION ~~14~~ 48.57 (3n) (g) 1. (intro.) of the statutes is amended to read:

6 48.57 (3n) (g) 1. (intro.) Upon receipt of a timely petition under par. (f) the
7 department shall give the applicant or recipient reasonable notice and an
8 opportunity for a fair hearing. The department may make such additional
9 investigation as it considers necessary. Notice of the hearing shall be given to the
10 applicant or recipient and to the county department or subunit of the department
11 whose ~~action or failure to act, denial, or discontinuation~~ is the subject of the petition.
12 That county department or subunit of the department may be represented at the
13 hearing. The department shall render its decision ~~as soon as possible after the~~

14 ~~hearing~~ and shall send a certified copy of its decision to the applicant or recipient and
15 to the county department or subunit of the department whose ~~action or failure to act,~~
16 denial, or discontinuation is the subject of the petition. The decision of the
17 department shall have the same effect as an order of the county department or
18 subunit of the department whose ~~action or failure to act, denial, or discontinuation~~
19 is the subject of the petition. The decision shall be final, but may be revoked or
20 modified as altered conditions may require. The department shall deny a petition
21 for review or shall refuse to grant relief if any of the following applies:

22 SECTION ~~15~~ 48.57 (3n) (g) 2. of the statutes is amended to read:

23 48.57 (3n) (g) 2. If a recipient whose payments under par. (am) are being
24 discontinued on the grounds that an event specified in par. (am) 6. a. to f. has occurred
25 requests a hearing within 10 days after the date of notice that his or her payments

1 under par. (am) are being discontinued or if a recipient whose payments under par.
2 (am) are being discontinued on the grounds that a condition specified in par. (am) 1.
3 to 5r. does not continue to exist requests a hearing before the date on which his or
4 her payments under par. (am) are to be discontinued, those payments may not be
5 discontinued, except as provided in subd. 2. a. or b., until a decision is rendered after
6 the hearing, but payments made pending the hearing decision may be recovered by
7 the county department or department if the ~~contested action or failure to act~~
8 discontinuation is upheld. The department shall promptly notify the county
9 department of the county in which the recipient resides or, if the recipient resides in
10 a county having a population of 500,000 or more, the subunit of the department
11 administering ~~of the~~ long-term kinship care ~~program~~ in that county that the
12 recipient has requested a hearing. Payments under par. (am) shall be discontinued
13 pending a hearing decision if any of the following applies:

14 SECTION ~~16.~~ [#] 48.57 (3p) (a) of the statutes is renumbered 48.57 (3p) (a) (intro.)
15 and amended to read:

16 48.57 (3p) (a) (intro.) In this subsection, ~~“adult resident”~~:

17 1. Adult resident” means a person 18 years of age or over who lives at the home
18 of a person who has applied for or is receiving payments under sub. (3m) or (3n) with
19 the intent of making that home his or her home or who lives for more than 30 days
20 cumulative in any 6-month period at the home of a person who has applied for or is
21 receiving payments under sub. (3m) or (3n).

22 SECTION ~~17.~~ [#] 48.57 (3p) (a) 2. of the statutes is created to read:

23 48.57 (3p) (a) 2. “Arrest” means an arrest for a violation for which the person
24 arrested, if convicted, would be disqualified from receiving payments under sub.
25 (3m) for a reason specified in par. (g) 1., 2., or 3.

1 ~~SECTION 18.~~ 48.57 (3p) (d) of the statutes is amended to read:

2 48.57 **(3p)** (d) If the person being investigated under par. (b) or (c) is a
3 nonresident, or at any time within the 5 years preceding the date of the application
4 has been a nonresident, or if the county department or, in a county having a
5 population of 500,000 or more, the department of health and family services
6 determines that the person's employment, licensing, or state court records provide
7 a reasonable basis for further investigation, the county department or department
8 of health and family services shall require the person to be fingerprinted on 2
9 fingerprint cards, each bearing a complete set of the person's fingerprints. The
10 department of justice may provide for the submission of the fingerprint cards to the
11 federal bureau of investigation for the purposes of verifying the identity of the person
12 fingerprinted and obtaining records of his or her ~~criminal arrest and conviction~~
13 arrests and convictions.

14 ~~SECTION 19.~~ 48.57 (3p) (e) 4. of the statutes is amended to read:

15 48.57 **(3p)** (e) 4. Information regarding the ~~conviction record of the person~~
16 person's record of arrests and convictions under the law of this state or any other
17 state or under federal law. This information shall be provided on a notarized
18 background verification form that the department shall provide by rule.

19 ~~SECTION 20.~~ 48.57 (3p) (fm) 1. of the statutes is amended to read:

20 48.57 **(3p)** (fm) 1. The county department or, in a county having a population
21 of 500,000 or more, the department of health and family services may provisionally
22 approve the making of payments under sub. (3m) based on the applicant's statement
23 under sub. (3m) (am) 4m. The county department or department of health and family
24 services may not finally approve the making of payments under sub. (3m) unless the
25 county department or department of health and family services receives information

the county department or department of health and family services determines is likely to

1 from the department of justice indicating that the arrest and conviction record of the
2 applicant under the law of this state is ~~satisfactory according to the criteria specified~~
3 in par. (g) 1. to 3. does not include any arrest or conviction that ~~could~~ adversely affect
4 the child or the ability of the applicant to care for the child or payment is approved
5 under par. (h) 4. The county department or department of health and family services
6 may make payments under sub. (3m) conditioned on the receipt of information from
7 the federal bureau of investigation indicating that the person's arrest and conviction
8 record under the law of any other state or under federal law is ~~satisfactory according~~
9 ~~to the criteria specified in par. (g) 1. to 3~~ does not include any arrest or conviction that
10 ~~could~~ adversely affect the child or the ability of the applicant to care for the child.

11 ~~SECTION 21.~~ 48.57 (3p) (fm) 1m. of the statutes is amended to read:

12 48.57 (3p) (fm) 1m. The county department or, in a county having a population
13 of 500,000 or more, the department of health and family services may not enter into
14 the agreement under sub. (3n) (am) 6. unless the county department or department
15 of health and family services receives information from the department of justice
16 ~~relating to the~~ indicating that the arrest and conviction record of the applicant under
17 the law of this state ~~and that record indicates either that the applicant has not been~~
18 ~~arrested or convicted or that the applicant has been arrested or convicted but~~ does
19 not include any arrest or conviction that the director of the county department or, in
20 a county having a population of 500,000 or more, the person designated by the
21 secretary of health and family services to review arrest and conviction records under
22 this subdivision determines ~~that the conviction record is satisfactory because it does~~
23 ~~not include any arrest or conviction that the director or person designated by the~~
24 ~~secretary determines is likely to adversely affect the child or the long-term kinship~~
25 ~~care relative's~~ applicant's ability to care for the child. The county department or, in

1 a county having a population of 500,000 or more, the department of health and family
2 services may make payments under sub. (3n) conditioned on the receipt of
3 information from the federal bureau of investigation indicating that the person's
4 arrest and conviction record under the law of any other state or under federal law is
5 ~~satisfactory because the conviction record~~ does not include any arrest or conviction
6 that the director of the county department or, in a county having a population of
7 500,000 or more, the person designated by the secretary of health and family services
8 to review arrest and conviction records under this subdivision determines is likely
9 to adversely affect the child or the ~~long-term kinship care relative's~~ person's ability
10 to care for the child.

11 ~~SECTION 22~~ ^{are likely to} 48.57 (3p) (fm) 2. of the statutes is amended to read:

12 48.57 (3p) (fm) 2. A person receiving payments under sub. (3m) may
13 provisionally employ a person in a position in which that person would have regular
14 contact with the child for whom those payments are being made or provisionally
15 permit a person to be an adult resident if the person receiving those payments states
16 to the county department or, in a county having a population of 500,000 or more, the
17 department of health and family services that the employee or adult resident does
18 not have any arrests or convictions that ~~could~~ ^{are likely to} adversely affect the child or the ability
19 of the person receiving payments to care for the child. A person receiving payments
20 under sub. (3m) may not finally employ a person in a position in which that person
21 would have regular contact with the child for whom those payments are being made
22 or finally permit a person to be an adult resident until the county department or, in
23 a county having a population of 500,000 or more, the department of health and family
24 services receives information from the department of justice indicating that the
25 person's arrest and conviction record under the law of this state is ~~satisfactory~~

the county department or department of health and family services determines is likely to

1 according to the criteria specified in par. (g) 1. to 3. and the county department or,
2 in a county having a population of 500,000 or more, the department of health and
3 family services so advises the person receiving payments under sub. (3m) does not
4 include any arrest or conviction that ~~may~~ adversely affect the child or the ability of
5 the person receiving payments to care for the child or until a decision is made under
6 par. (h) 4. to permit a person who is receiving payments under sub. (3m) to employ
7 a person in a position in which that person would have regular contact with the child
8 for whom payments are being made or to permit a the person to be so employed or
9 to be an adult resident and the county department or, in a county having a population
10 of 500,000 or more, the department of health and family services so advises the
11 person receiving payments under sub. (3m). A person receiving payments under sub.
12 (3m) may finally employ a person in a position in which that person would have
13 regular contact with the child for whom those payments are being made or finally
14 permit a person to be an adult resident conditioned on the receipt of information from
15 by the county department or, in a county having a population of 500,000 or more, the
16 department of health and family services that from the federal bureau of
17 investigation indicates indicating that the person's arrest and conviction record
18 under the law of any other state or under federal law is satisfactory according to the
19 criteria specified in par. (g) 1. to 3 does not include any arrest or conviction that ~~may~~
20 adversely affect the child or the ability of the person receiving payments to care for
21 the child.

22 **SECTION 23.** 48.57 (3p) (fm) 2m. of the statutes is amended to read:

23 48.57 (3p) (fm) 2m. A person receiving payments under sub. (3n) may
24 provisionally employ a person in a position in which that person would have regular
25 contact with the child for whom those payments are being made or provisionally

1 permit a person to be an adult resident if the person receiving those payments states
2 to the county department or, in a county having a population of 500,000 or more, the
3 department of health and family services that, to the best of his or her knowledge,
4 the employee or adult resident does not have any arrests or convictions that ~~could~~
5 adversely affect the child or the ability of the person receiving payments to care for
6 the child. A person receiving payment under sub. (3n) may not finally employ a
7 person in a position in which that person would have regular contact with the child
8 for whom those payments are being made or finally permit a person to be an adult
9 resident until the county department or, in a county having a population of 500,000
10 or more, the department of health and family services receives information from the
11 department of justice ~~relating to the person's~~ indicating that the arrest and
12 conviction record of the person under the law of this state ~~and that record indicates~~
13 ~~either that the person has not been arrested or convicted or that the person has been~~
14 ~~arrested or convicted but~~ does not include any arrest or conviction that the director
15 of the county department or, in a county having a population of 500,000 or more, the
16 person designated by the secretary of health and family services to review arrest and
17 conviction records under this subdivision determines ~~that the conviction record is~~
18 ~~satisfactory because it does not include any arrest or conviction that~~ is likely to
19 adversely affect the child or the ~~long-term kinship care relative's ability of the person~~
20 receiving payments to care for the child ~~and the county department or department~~
21 ~~of health and family services so advises the person receiving payments under sub.~~
22 (3n). A person receiving payments under sub. (3n) may finally employ a person in
23 a position in which that person would have regular contact with the child for whom
24 those payments are being made or finally permit a person to be an adult resident
25 conditioned on the receipt of information ~~from~~ by the county department or, in a

1 county having a population of 500,000 or more, the department of health and family
2 services ~~that from~~ the federal bureau of investigation indicates indicating that the
3 person's arrest and conviction record under the law of any other state or under
4 federal law ~~is satisfactory because the conviction record~~ does not include any arrest
5 for which a criminal charge is pending or conviction that the director of the county
6 department or, in a county having a population of 500,000 or more, the person
7 designated by the secretary of health and family services to review arrest and
8 conviction records under this subdivision determines is likely to adversely affect the
9 child or the ~~long-term kinship care relative's~~ ability of the person receiving
10 payments to care for the child.

11 ~~SECTION 24.~~ [#] 48.57 (3p) (g) (intro.) of the statutes is amended to read:

12 48.57 (3p) (g) (intro.) Except as provided in par. (h), the county department or,
13 in a county having a population of 500,000 or more, the department of health and
14 family services may not make payments to a person applying for payments under
15 sub. (3m) and a person receiving payments under sub. (3m) may not employ a person
16 in a position in which that person would have regular contact with the child for whom
17 those payments are being made or permit a person to be an adult resident if ~~any of~~
18 the following applies the person has been convicted or penalized as follows and if the
19 county department or the department of health and family services determines that
20 the conviction or penalty is likely to adversely affect the child or the ability of the
21 person applying for or receiving payments to care for the child:

22 ~~SECTION 25.~~ [#] 48.57 (3p) (h) 1. of the statutes is amended to read:

23 48.57 (3p) (h) 1. A person who is denied payments under sub. (3m) ~~for a reason~~
24 specified in par. (g) 1., 2. or 3. based on the person's ~~arrest or~~ conviction record, a
25 person whose payments under sub. (3m) are discontinued based on the person's

1 ~~person~~ with conviction record, or a person who is prohibited from employing a person
2 in a position in which that person would have regular contact with the child for whom
3 payments under sub. (3m) are being made or from permitting a person to be an adult
4 resident for a reason specified in par. (g) 1., 2. or 3. based on the person's ~~arrest~~ conviction
5 record may request that the denial or discontinuation of payments or the
6 prohibition on employment or being an adult resident be reviewed under subd. 2.
7 Review is unavailable if the denial, discontinuation, or prohibition occurred more
8 than 45 days before submission of the request for review.

9 SECTION ~~26~~ 48.57 (3p) (h) 2m. of the statutes is created to read:

10 48.57 (3p) (h) 2m. If a person whose payments under sub. (3m) are being
11 discontinued based on the person's ~~arrest~~ conviction record requests a review
12 before the date on which those payments are to be discontinued, those payments may
13 not be discontinued, except as provided in subd. 2m. a. or b., until a decision is
14 rendered after the review but payments made pending the review decision may be
15 recovered by the county department or department if the discontinuation is upheld.
16 Payments under sub. (3m) shall be discontinued if any of the following applies:

17 a. The person is contesting a state law or a change in state law and not the
18 determination of the payment made on the person's behalf.

19 b. The person is notified of a change in his or her payments under sub. (3m)
20 while the review decision is pending but the person fails to request a review of the
21 change.

22 SECTION ~~27~~ 48.57 (3p) (h) 3. of the statutes is amended to read:

23 48.57 (3p) (h) 3. The director of the county department, the person designated
24 by the governing body of a federally recognized American Indian tribe or band or, in
25 a county having a population of 500,000 or more, the person designated by the

1 secretary of health and family services shall review the denial or discontinuation of
2 payments or the prohibition on employment or being an adult resident to determine
3 if the ~~arrest or~~ conviction record on which the denial, discontinuation, or prohibition
4 is based ~~includes any arrests, convictions or penalties that are~~ is likely to adversely
5 affect the child or the ability of the ~~kinship care relative~~ person to care for the child.
6 In reviewing the denial, discontinuation, or prohibition, the director of the county
7 department, the person designated by the governing body of the federally recognized
8 American Indian tribe or band or the person designated by the secretary of health
9 and family services shall consider, but not be limited to, all of the following factors:

10 a. The length of time between the date of the ~~arrest, conviction, or of the~~ ^(plan)
11 imposition of the penalty and the date of the review.

12 ^(plan) b. The nature of the ~~violation, arrest, conviction,~~ ^(plan) or penalty and how that
13 ~~violation, arrest, conviction,~~ or penalty affects the ability of the ~~kinship care relative~~
14 petitioner to care for the child.

15 c. Whether ~~making an exception to the denial, discontinuation, or prohibition~~
16 ~~would be~~ is in the best interests of the child.

17 SECTION ~~28.~~ 48.57 (3p) (h) 4. of the statutes is amended to read:

18 48.57 (3p) (h) 4. If the director of the county department, the person designated
19 by the governing body of the federally recognized American Indian tribe or band, or,
20 in a county having a population of 500,000 or more, the person designated by the
21 secretary of health and family services determines that the ~~arrest or~~ conviction
22 record on which the denial or discontinuation of payments or the prohibition on
23 employment or being an adult resident is based does not include any ~~arrests,~~
24 ~~convictions,~~ or penalties that are likely to adversely affect the child or the ability of
25 the ~~kinship care relative~~ person requesting the review to care for the child, the

1 director of the county department, the person designated by the governing body of
2 the federally recognized American Indian tribe or band, or the person designated by
3 the secretary of health and family services may approve the making of payments
4 under sub. (3m) or may permit a person receiving payments under sub. (3m) to
5 employ a person in a position in which that person would have regular contact with
6 the child for whom payments are being made or permit a person to be an adult
7 resident.

8 ~~SECTION 28.~~ 48.57 (3p) (h) 5. of the statutes is amended to read:

9 48.57 (3p) (h) 5. A decision under this paragraph is not subject to review under
10 ~~ch. 227 par. (hg).~~

11 ~~SECTION 30.~~ 48.57 (3p) (hg) of the statutes is created to read:

12 48.57 (3p) (hg) 1. If on review under par. (h) a denial or discontinuation of
13 payments under sub. (3m) or a prohibition on employment or being an adult resident
14 is upheld, the person who requested the review may petition the department under
15 subd. 2. for a review of that denial, discontinuation, or prohibition. Review is
16 unavailable if the denial, discontinuation, or prohibition ~~arose~~ more than 45 days
17 before submission of the petition for review.

18 2. Upon receipt of a timely petition under subd. 1. the department shall give
19 the petitioner reasonable notice and an opportunity for a fair hearing. The
20 department may make such additional investigation as it considers necessary.
21 Notice of the hearing shall be given to the petitioner and to the county department
22 or subunit of the department whose denial, discontinuation, or prohibition is the
23 subject of the petition. That county department or subunit of the department may
24 be represented at the hearing. The department shall render its decision as soon as
25 possible after the hearing and shall send a certified copy of its decision to the

1 applicant or recipient and to the county department or subunit of the department
2 whose denial, discontinuation, or prohibition is the subject of the petition. The
3 decision of the department shall have the same effect as an order of the county
4 department or subunit of the department whose denial, discontinuation, or
5 prohibition is the subject of the petition. The decision shall be final, but may be
6 revoked or modified as altered conditions may require. The department shall deny
7 a petition for review or shall refuse to grant relief if any of the following applies:

8 a. The petitioner withdraws the petition in writing.

9 b. The sole issue in the petition concerns a change that affects an entire class
10 of recipients and is the result of a change in state law.

11 c. The petitioner abandons the petition. Abandonment occurs if the petitioner
12 fails to appear in person or by a representative at a scheduled hearing without good
13 cause, as determined by the department.

14 3. If a person whose payments under sub. (3m) are being discontinued based
15 on the person's ~~arrest or~~ conviction record requests a hearing before the date on
16 which those payments are to be discontinued, those payments may not be
17 discontinued, except as provided in subd. 3. a. or b., until a decision is rendered after
18 the hearing but payments made pending the hearing decision may be recovered by
19 the county department or department if the discontinuation is upheld. The
20 department shall promptly notify the county department of the county in which the
21 person resides or, if the person resides in a county having a population of 500,000 or
22 more, the subunit of the department administering kinship care in that county that
23 the person has requested a hearing. Payments under sub. (3m) shall be discontinued
24 if any of the following applies:

1 a. The person is contesting a state law or a change in state law and not the
2 determination of the payment made on the person's behalf.

3 b. The person is notified of a change in his or her payments under sub. (3m)
4 while the hearing decision is pending but the person fails to request a hearing on the
5 change.

6 4. The person requesting the hearing shall be promptly informed in writing if
7 his or her payments under sub. (3m) are to be discontinued pending the hearing
8 decision.

9 ~~SECTION 31.~~ [#] 48.57 (3p) (hm) of the statutes is amended to read:

10 48.57 (3p) (hm) A county department or, in a county having a population of
11 500,000 or more, the department may not make payments to a person under sub. (3n)
12 and a person receiving payments under sub. (3n) may not employ a person in a
13 position in which that person would have regular contact with the child for whom
14 payments are being made or permit a person to be an adult resident if the director
15 of the county department or, in a county having a population of 500,000 or more, the
16 person designated by the secretary to review arrest and conviction records under this
17 paragraph determines that the person has any arrest or conviction that is likely to
18 adversely affect the child or the ~~long-term kinship care relative's~~ ability of the person
19 receiving payments to care for the child.

20 ~~SECTION 32.~~ [#] 48.57 (3r) of the statutes is created to read:

21 48.57 (3r) If the amounts in the appropriation under s. 20.435 (3) (kc) are
22 insufficient to provide payments under sub. (3m) (am) (intro.) or (3n) (am) (intro.) to
23 all persons who are eligible to receive those payments, the department may request
24 the secretary of administration under s. 16.515 to supplement that appropriation for
25 the purpose of increasing funding for those payments. Notwithstanding s. 16.515 (1),

1 the secretary of administration may supplement the appropriation under s. 20.435
2 (3) (kc) if all of the following occur:

3 (a) The secretary of administration determines that the amounts in the
4 appropriation are insufficient to provide payments under sub. (3m) (am) (intro.) or
5 (3n) (am) (intro.) to all persons who are eligible to receive those payments.

6 (b) The joint committee on finance either does not schedule a meeting for the
7 purpose of reviewing the proposed supplementation within 14 working days after the
8 secretary of administration notifies the committee of the proposed supplementation
9 or, if the committee schedules a meeting for the purpose of reviewing the proposed
10 supplementation, the committee approves the proposed supplementation.

11 ~~SECTION 33.~~ 48.57 (3t) of the statutes is amended to read:

12 48.57 (3t) Notwithstanding subs. (3m), (3n), and (3p), the department may
13 enter into an agreement with the governing body of a federally recognized American
14 Indian tribe or band to allow that governing body to administer the program under
15 subs. (3m), (3n), and (3p) within the boundaries of that reservation. Any agreement
16 under this subsection relating to the administration of the program under sub. (3m)
17 shall specify the person with whom a request for review under sub. (3p) (h) 2. may
18 be filed and the person who has been designated by the governing body to conduct
19 the review under sub. (3p) (h) 3. and make the determination under sub. (3p) (h) 4.
20 Any agreement under this subsection relating to the administration of the program
21 under sub. (3n) shall specify who is to make any determination as to whether ~~a~~ an
22 arrest and conviction record is satisfactory.

23 ~~SECTION 34.~~ 48.979 of the statutes is created to read:

24 **48.979 Authorization to consent to health services. (1) DEFINITIONS.** In
25 this section:

1 (a) "Caregiver" means an individual 18 years of age or over who resides with
2 a child or provides temporary or permanent care and supervision for a child.

3 (b) "Health care facility" has the meaning given in s. 155.01 (6).

4 (c) "Health care provider" has the meaning given in s. 146.81 (1).

5 (d) "Health services" means any emergency or nonemergency care, treatment,
6 service, or procedure to maintain, diagnose, or treat a physical or mental condition.

7 **(2) AUTHORIZING A CAREGIVER TO CONSENT TO HEALTH SERVICES.** (a) A parent may
8 authorize a caregiver to consent to health services for the parent's child by
9 completing a health services consent form.

10 (b) A valid health services consent form shall be all of the following:

11 1. In writing.

12 2. Dated and signed by the parent and the caregiver whom the parent is
13 authorizing to consent to health services for the child.

14 3. Voluntarily executed.

15 (c) A health services consent form under this section shall remain in effect for
16 the period of time specified on the form, which period may not exceed one year from
17 the date on which the form is executed, unless the form is revoked or otherwise made
18 invalid earlier.

19 (d) Nothing in this section shall be construed to make invalid other instruments
20 that are voluntarily executed by a parent authorizing an individual or other entity
21 to consent to health services for the parent's child.

22 **(3) EFFECT OF HEALTH SERVICES CONSENT FORM; FORM.** (a) Unless the health
23 services consent form, a guardianship order, or any other court order provides
24 otherwise, a caregiver designated in a health services consent form whom a health
25 care provider knows is available to consent to health services for a child has priority

1 over all other individuals other than a parent who is not currently denied periods of
2 physical placement with the child to make health services decisions as provided in
3 the health services consent form.

4 (b) The department shall prepare the health services consent form and
5 accompanying information. The department shall include, in information
6 accompanying the form, at least the statutory definitions of the terms used in the
7 form. The department shall prepare the form and accompanying information in
8 English, Spanish, and other languages spoken by a significant number of state
9 residents, as determined by the department. The department shall make the health
10 services consent form available at no charge on the Internet. The health services
11 consent form prepared by the department shall be in substantially the following
12 form:

13 HEALTH SERVICES CONSENT

14 *Use of form:* Use of this form is voluntary, but completion of the form will aid
15 the caregiver of a child in ensuring that appropriate and timely health care is
16 provided for the child. The form is to be completed by the parent of a child who resides
17 with another adult or who is being cared for by another adult.

18 *Instructions:* If additional space is needed, attach a separate sheet or use
19 reverse side of this form.

20 AUTHORIZATION TO CONSENT

21 TO HEALTH SERVICES

22 I, (print name of parent), hereby authorize my child's caregiver (print
23 name of caregiver), who currently resides with or is providing care for (cross out
24 "currently resides with or" or "or is providing care for," if inapplicable) my child,
25 (print name and date of birth of child), to do the following for my child:

1 A. *Health Services Consent and Exclusions:*

2 Provide consent for emergency and nonemergency health services for my child,
3 (print name of child), including medical and dental examinations and prescribed
4 treatments, including surgery, with the following exceptions: (If there are no
5 exceptions, write “none.”)

6
7

8 All health services will be provided under the direction of a licensed dental care
9 provider or physician or other licensed health care provider as appropriate.

10 B. *Child’s Health Care Records.* Provide consent to the release of the patient
11 health care records of my child, (print name of child), with the following
12 exceptions: (If there are no exceptions, write “none.”)

13
14

15 The authority granted under this health services consent form shall remain in
16 effect until (print date), unless revoked or made invalid earlier. (The parent may
17 specify any date agreed to between the parent and caregiver up to one year after the
18 date on which the form is signed.)

19 Signature of parent

Date

20 Name of parent (print)

21 STATEMENT OF CAREGIVER

22 I understand that (name of parent) has authorized me to make health
23 services decisions for (name of child). I agree to make health services decisions
24 for the above-named child consistent with what I and the child’s health care
25 providers believe is in the child’s best interest, consistent with the authority granted

1 in this form, and consistent with any other wishes or beliefs of the child's parent of
2 which I am aware.

3 Signature of Caregiver

Date

4 CONTACT INFORMATION

5 *A. Parent:*

6 Name (print)

7 Home address

Home telephone number

8 Work address

Work telephone number

9 Other address (specify)

Other telephone number

10 *B. Caregiver:*

11 Name (print)

12 Home address

Home telephone number

13 Work address

Work telephone number

14 Other address (specify)

Other telephone number

15 (4) REVOCATION OF HEALTH SERVICES FORM. (a) A parent may revoke a health
16 services consent form at any time by doing any of the following:

17 1. Canceling, defacing, obliterating, burning, tearing, or otherwise destroying
18 the health services consent form.

19 2. Executing a statement, in writing, that is signed and dated by the parent,
20 expressing the parent's intent to revoke the health services consent form.

21 3. Executing a subsequent health services consent form.

22 (b) A health services consent form is not valid if the child no longer resides with
23 the caregiver.

24 (c) If a caregiver knows that the instrument that authorized him or her to make
25 health services decisions for a child has been revoked or is no longer valid, the

1 caregiver shall communicate this fact to any health care provider for the child that
2 the caregiver knows has a copy of the health services consent form.

3 (d) The child's health care provider shall, upon notification of revocation or
4 invalidity of the health services consent form, record in the child's medical record the
5 time, date, and place of the notification to the health care provider of the revocation
6 or invalidity.

7 (5) DUTIES AND IMMUNITIES. (a) No health care facility or health care provider
8 may be charged with a crime, held civilly liable, or charged with unprofessional
9 conduct for any of the following in providing health services under a health services
10 consent form:

11 1. Complying, in the absence of actual knowledge of a revocation, with the
12 terms of a health services consent form that is in compliance with this section or the
13 decision of a caregiver that is made under a health services consent form that is in
14 compliance with this section.

15 2. Acting contrary to or failing to act on a revocation of a health services consent
16 form, unless the health care facility or health care provider has actual knowledge of
17 the revocation.

18 3. Acting contrary to or failing to act on the health services decision of a parent
19 who is not currently denied periods of physical placement with the child, unless the
20 health care facility or health care provider has actual knowledge of the parent's
21 health services decision.

22 (b) In the absence of actual notice to the contrary, a health care facility or health
23 care provider may presume that a parent was authorized to execute the health
24 services consent form under the requirements of this section and that the form is
25 valid.

(c) No caregiver may be charged with a crime or held civilly liable for making a decision in good faith under a health services consent form that is in compliance with this section.

(6) PENALTIES. (a) Whoever knowingly falsifies or forges a health services consent form with intent to create the false impression that a person other than the caregiver has been designated to consent to health services for a child is subject to a forfeiture not to exceed \$200.

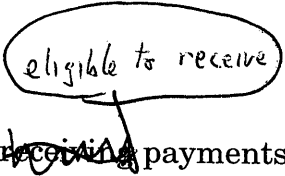
(b) Whoever gives or attempts to give consent for health services based on a health services consent form that the individual knows has been executed without the voluntary consent of the parent, that the individual knows has been forged or substantially altered without the authorization of the child's parent, or that the individual knows has been revoked, with the intent to act contrary to the parent's wishes may be fined not more than \$500 or imprisoned for not more than 30 days or both.

SECTION ~~35~~ 49.155 (5) of the statutes is renumbered 49.155 (5) (a) and amended to read:

49.155 (5) (a) An individual is liable for the percentage of the cost of the child care specified by the department in a printed copayment schedule except as provided in pars. (b), (c), and (d).

(b) An individual who is under the age of 20 and is attending high school or participating in a course of study meeting the standards established under s. 115.29 (4) for the granting of a declaration of equivalency to high school graduation may not be determined liable for more than the minimum copayment amount for the type of child care received and the number of children receiving child care.

SECTION ~~36~~ 49.155 (5) (c) and (d) of the statutes are created to read:



eligible to receive

① 49.155 (5) (c) An individual who is ~~receiving~~ payments under s. 48.57 (3m) or
(3n) for providing care and maintenance for a child is not liable for a copayment for
the child.

(d) An individual who the department specifies, by rule, is not liable for a
copayment.

SECTION ~~37~~ 880.08 (3) (am) (intro.) of the statutes is amended to read:

880.08 (3) (am) (intro.) When the proposed ward is a minor, notice shall be
given as provided in s. 879.05 to all of the following persons, if applicable, except that
notice required to be given by publication shall be published as a class 1 notice:

SECTION ~~38~~ **Nonstatutory provisions.**

(1) GUARDIANSHIP AND LEGAL CUSTODY OF CHILDREN. The joint legislative council
is requested to study state laws regarding guardianship and legal custody of children
and the rights and responsibilities of guardians and legal custodians of children. If
the joint legislative council conducts the study, the joint legislative council shall
report its findings, conclusions, and recommendations to the legislature in the
manner provided under section 13.172 (2) of the statutes by January 1, 2005.

(2) KINSHIP CARE FUNDING MANAGEMENT. The department of health and family
services shall study methods to manage the funding appropriated for kinship care
payments in order to minimize the need for waiting lists for kinship care payments.
The department shall submit a report summarizing the results of the study to the
appropriate standing committees of the legislature in the manner provided under
section 13.172 (3) of the statutes by June 30, 2004.

(END)

Insert 5-14

Section #. 48.57 (3m) (am) 4. of the statutes is amended to read:

are likely to

48.57 (3m) (am) 4. The county department or department conducts a background investigation under sub. (3p) of the kinship care relative, any employee and prospective employee of the kinship care relative who has or would have regular contact with the child for whom the payments would be made and any other adult resident of the kinship care relative's home to determine if the kinship care relative, employee, prospective employee or adult resident has any arrests or convictions that ~~could~~ adversely affect the child or the kinship care relative's ability to care for the child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.



Insert 5-14

Section #. 48.57 (3m) (am) 4m. of the statutes is amended to read:

are likely to

48.57 (3m) (am) 4m. Subject to sub. (3p) (fm) 1. and 2., the kinship care relative states that he or she does not have any arrests or convictions that ~~could~~ adversely affect the child or the kinship care relative's ability to care for the child and that no adult resident, as defined in sub. (3p) (a), and no employee or prospective employee of the kinship care relative who would have regular contact with the child has any arrests or convictions that ~~could~~ adversely affect the child or the kinship care relative's ability to care for the child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

(end insert)

dict 9-12

Section #. 48.57 (3n) (am) 4m. of the statutes is amended to read:

are likely to

48.57 (3n) (am) 4m. Subject to sub. (3p) (fm) 1m. and 2m., the long-term kinship care relative states that he or she does not have any arrests or convictions that ~~could~~ adversely affect the child or the long-term kinship care relative's ability to care for the child and that, to the best of the long-term kinship care relative's knowledge, no adult resident, as defined in sub. (3p) (a), and no employee or prospective employee of the long-term kinship care relative who would have regular contact with the child has any arrests or convictions that ~~could~~ adversely affect the child or the long-term kinship care relative's ability to care for the child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

Certified

Anne

2/23

1/4 Feb in a 2251

92272

Also conform s. 48.57(3m)(2)(intro.)

To (3n)(d)(intro.) re co dep't or DFFS

approve absence from home